

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Ulious Brooks,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:10cv953
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Southern Ohio Correctional Facility,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman filed on December 8, 2011 (Doc. 17), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired December 27, 2011, hereby ADOPTS said Report and Recommendation.

Accordingly, petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 6) is **DISMISSED** with prejudice.

A certificate of appealability will not issue in this case because under the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), which governs grounds for relief that are denied on procedural grounds, "jurists of reason" will not find it debatable (1) whether the Court is correct in its procedural ruling that petitioner waived his claims of error by entering a guilty plea, or (2) whether petitioner has stated a viable constitutional claim. *See also* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. 1915(a)(3) that an appeal of any Order adopting the

Report and Recommendation will not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal *in forma pauperis* upon any showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117F.3d, 949, 952 (6th Circ. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court